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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,796	06/23/2003	Morris Samelson	P-5435(DIV1)	7988

7590 09/22/2005

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700 N. ST. MARY'S STREET, STE.1500  
SAN ANTONIO, TX 78205

EXAMINER
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CHANNAVAJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/601,796

Applicant(s)

SAMELSON ET AL.

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

Receipt of amendment, RCE, declaration and remarks, all dated 8-1-05 is acknowledged.

Claims 1-18 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8-1-05 has been entered.

#### ***Claim Rejections - 35 USC § 103***

Claims 1-5, 7-10, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0211062 to Laden et al (Laden) in view of KR 149428 (KR).

Laden teaches anhydrous skin cleansers comprising emollient oils (0021), emulsifying agents (0030-0032), substantially crystalline abrasive materials (0033-0036) and other additives such as tocopherol, fragrances. Laden teaches that the crystalline abrasive material is used at a concentration of 1-60% (0014), to provide sufficient abrasive effect in the removal of soils, without irritating or scratching of the skin. Examples 1 and 8 particularly recite Dead Sea salt as an abrasive. While Laden suggests employing abrasives at a concentration of 1-60%, the reference fails to

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specifically state that the Dead Sea salts should constitute "at least 50% of the weight of the composition", as claimed.

KR teaches a cosmetic composition comprising large quantities of salt (15%-85%) such as bay salt, Dead Sea salt or bamboo salt, having a particle size of 0.1mm to 5.00 mm, oil, surfactant and a polyol (abstract). KR teaches that by employing a high amount of salt enhances the massage and clears skin by moisturization-blood flow function. Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant to use 15% to 85% of Dead Sea salt at with an expectation to obtain skin scrubbing as well as enhanced moisturization and blood flow. Further, the particle size of salts taught by KR includes the claimed sizes (instant claims 16 and 18).

Claims 6,11-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2003/0211062 to Laden et al (Laden) in view of KR 149428 (KR) as applied to claims 1-10, 16 and 18 above, and further in view of 5,997,889 to Durr et al (Durr).

Laden and KR fail to teach the claimed essential oils of the instant claims. However, Laden teach addition of fragrance and tocopherol in the composition. Both Laden and KR teach maintaining skin moisture during scrubbing.

Durr teaches '889 teaches hand and body cream for skin ailments such as dry, itchy skin, eczema, psoriasis etc., comprising oils such as almond oil, jojoba oil, vitamin e oil, for moisturizing and conditioning of skin (col. 2) and beeswax for forming a protective barrier (col. 3). Further, '889 teach addition of fragrances such as rosewood,

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chamomile, calendula, lavender, etc (col.4, lines 43-58), as essential oils for providing immediate relief from skin discomfort. It would have been obvious for one of an ordinary skill in the art at the time of the instant invention to include the emollients such as jojoba oil, waxes and fragrances/essential oils of '889 in the composition of Laden containing high percentages of Dead sea salts (KR) because '889 teaches the ingredients for moisturizing and providing relief to psoriatic or itchy skin conditions. Therefore, a skilled artisan would have expected to achieve a more effective composition for treating psoriasis with a composition containing Dead Sea salts, emollients such as jojoba oils etc.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

Examiner has considered the declaration by Terrance Clifford submitted on 8-1-05. However, the declaration is not found persuasive because a careful analysis of the results presented in the declaration shows that the while instant claims recite at least 50% of the Dead Sea salts, the results show that the skin feel and intended effect on the skin does not necessarily occur above 50% of the Dead Sea salts. This is supported by the results of experiment 5, which includes 55% Dead Sea salts (which is at least 50% as claimed) still shows an unacceptable feel and the immediate effect is not intended. Further, it is observed at a concentration of 51%, the effect of Dead Sea salt is not uniform in all the samples and varies with the amount of soy bean oil, jojoba

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oil, beeswax and vitamin E oil (mixed tocopherols). Thus, the unexpected results presented in the Declaration are not of the same scope of the instant claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 9.00 AM -6.30 PM

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Lakshmi S Channavajjala  
Examiner  
Art Unit 1615

September 19, 2005